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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,103

04/25/2006

Albert Hendrik Jan Immink

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

CHU, KIM KWOK

ART UNIT

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2627

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,103	<b>Applicant(s)</b> IMMINK ET AL.	
	<b>Examiner</b> KIM CHU	<b>Art Unit</b> 2627	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

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### ***Claim Objections***

1. Claims 1-10 are objected to because of the following informality:

(a) in claims 1-10, the labels within the parentheses should be deleted because they have no significances to the claim limitations; and

(b) in Claim 1, line 6, the term "a channel symbol" should be changed to --the channel symbol--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Nomoto (U.S. Patent 5,717,682).

4. Nomoto teaches a recording apparatus having all of the elements and means as recited in Claims 1-7. For example, Nomoto teaches the following:

(a) with respect to Claim 1, the recording apparatus for recording channel symbols (data) of a channel data stream

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on a record carrier 2 (Figs. 4B and 4C), the apparatus 100 (Fig. 8) being adapted for recording the channel symbols (data) as a channel band (data files) of at least two symbol rows (Fig. 4C; data are recorded on at least two tracks) one-dimensionally evolving along a first direction (along the track) and aligned with each other along a second direction (radius direction), the two directions constituting a two-dimensional lattice (pattern) of symbol cells (pits) each being associated with a symbol area (pit region) of the record carrier 2, wherein a channel symbol (data/bit) 33 (Fig. 4A) is recorded in the form of a mark area (data region) having a longitudinal shape of a length in the first direction (track direction) substantially equal to the length of a symbol area (pit region) in the first direction (track direction) and of a width in the second direction (radial direction) being smaller than the width of a symbol area (data region) 34 in the second direction (radial direction) (Fig. 4A; 34 is wider than 33 in the radial direction).

(b) with respect to Claim 2, the mark area (data area) 31-34 has a rectangular or square shape (Fig. 4A).

(c) with respect to Claim 3, the mark area 31-34 is a pit area comprising a rectangularly shaped pillar portion or a rectangularly shaped hole (Fig. 4A).

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(d) with respect to Claim 4, the mark area 33, 34 covers less than 75% of the associated symbol area (pit area), in particular between 45% and 55% of the associated symbol area (pit area) (Fig. 4C; the medium's storage capacity is about 45% full of data).

(e) with respect to Claim 5, the mark area 33, 34 is a pit area comprising a rectangularly shaped amorphous area with a polycrystalline environment (data is stored in a silicon based substrate where the pit area has no permanent form).

(f) with respect to Claim 6, the mark area 33, 34 is a pit area comprising a rectangularly shaped polycrystalline area with an amorphous environment (data is stored in a silicon based track where data can be reformatted).

(g) with respect to Claim 7, the apparatus is adapted 100 (Fig. 8) for arranging the symbol cells on the lattice points of a quasi-square lattice and are arranged with a symbol area having a square shape (Fig. 4C).

5. Method claim 8 is drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore method claim 8 corresponds to apparatus claim 1 and is rejected for the same reason of anticipation as used above.

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6. Claims 9 and 10 have limitations similar to those treated in the above rejection, and are met by the references as discussed above. Claim 10 however also recites the following limitation which is also taught by the prior art of Nomoto:

(a) with respect to Claim 10, the record carrier 2 is a recordable or a rewritable record carrier, in particular having a phase-change recording layer (Fig. 8; carrier 2 is a CD recordable medium).

#### ***Related Prior Art***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Batterman et al. (5,189,292) is pertinent because Batterman teaches an optical encoded label.

8. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen, can be reached on (571) 272-7579.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

/Kim-Kwok CHU/

Examiner AU2627

March 30, 2008

(571) 272-7585

/HOA T NGUYEN/

Supervisory Patent Examiner, Art Unit 2627